

# Memorandum

**TO:** RULES AND OPEN  
GOVERNMENT COMMITTEE

**FROM:** Mayor Chuck Reed

**SUBJECT:** OPTION AGREEMENT

**DATE:** October 20, 2011

Approved

Date

10/20/11

## RECOMMENDATION

Schedule a joint meeting for the City Council and the San Jose Diridon Development Authority on November 8, 2011 to take the following actions:

- a. Approve an Option Agreement for the sale of property from the San Jose Diridon Development Authority to Athletics Investment Group LLC;
- b. Direct the San Jose Diridon Development Authority staff to transfer all proceeds from the land sales to the San Jose Redevelopment Agency; and
- c. Affirm previous City Council Resolutions supporting the efforts of the Oakland A's ownership to move the team to San José.

## BACKGROUND

The Athletics Investment Group LLC is prepared to enter into an Option Agreement to purchase approximately 4.9 acres of property for use as a Major League Baseball park and uses incidental to the Major League Baseball park. The properties were transferred to the San Jose Diridon Development Authority from the San Jose Redevelopment Agency in March 2011.

The City Council has acted unanimously on numerous occasions in the past four years to support actions related to our strategy to attract a Major League Baseball team to San José. A privately built and operated Major League ballpark is expected to create nearly 1,000 jobs and generate more than \$5 million of new revenues a year for local governments according to an Economic Impact Analysis that was commissioned by the Redevelopment Agency and accepted by the City Council on September 15, 2009 ([http://www.sjredevelopment.org/ballpark/EI\\_Report\\_09022009.pdf](http://www.sjredevelopment.org/ballpark/EI_Report_09022009.pdf)). San José could receive over \$3 million each year and Santa Clara County, schools and other local agencies could receive over \$2 million a year in new revenues. It makes fiscal and economic sense to bring baseball to Downtown San José. Our residents will benefit, our businesses will benefit, and our workers will benefit.

The City Council should now move to facilitate the sale of the lands that are intended for use as a ballpark site. We should also direct the San Jose Diridon Development Authority to transfer to the Redevelopment Agency all proceeds from the sale of the properties to assist the Agency with future payments of enforceable obligations. To send a very clear message to the Major League Baseball Commissioner that our support has not waned, I also recommend that the City Council and Redevelopment Agency Board re-affirm our past resolutions adopted in May 2009 (Resolution No. 74908), August 2010 (Resolution No. 75513), and in September 2010 (Resolution No. 75567 and No. 5985) as attached.

**RESOLUTION NO. 74908**

**A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSÉ EXPRESSING THE DESIRE TO SUPPORT THE A'S IF MAJOR LEAGUE BASEBALL FAVORS A RELOCATION OF THE A'S TO SAN JOSÉ AND EXPRESSING A WILLINGNESS TO WORK TO DEVELOP A MAJOR LEAGUE BASEBALL PARK ON THE SITE LOCATED AT PARK AVENUE AND AUTUMN/MONTGOMERY STREETS; ESTABLISHING NEGOTIATING PRINCIPLES FOR THE DEVELOPMENT OF A MAJOR LEAGUE BASEBALL STADIUM IN THE DIRIDON AREA OF DOWNTOWN SAN JOSÉ; AND DIRECTING THE CITY MANAGER TO COMMENCE A PUBLIC ENGAGEMENT PROGRAM REGARDING A BASEBALL STADIUM AND OTHER MAJOR PLANNING ACTIVITIES IN THE DIRIDON AREA**

**WHEREAS**, on April 7, 2009, the City Council and Agency Board directed staff to return with a resolution indicating the desire of the City of San José to support the A's if MLB favors a relocation of the A's to San José and indicating that the City is willing to accommodate the A's on the site at Park Avenue and Autumn/Montgomery Streets ("Site"); and

**WHEREAS**, on April 7, 2009, the City Council and Agency Board also directed staff to assess the steps necessary to prepare the Site for a Major League Baseball stadium for the A's and directed staff to prepare an outreach program to neighboring residents and businesses; and

**WHEREAS**, staff has developed a set of negotiating principles, as described in the memorandum from the Executive Director and City Manager dated May 1, 2009, which consists of the following five (5) principles:

1. The stadium development must generate a significant economic benefit to the City of San José and have a positive impact on the City of San José's General Fund.

2. The Major League Baseball team, at no cost to the City of San José, will be responsible for building the stadium structure and improvements on the approximate 14-acre designated stadium site.

3. The Major League Baseball team will be responsible for paying for all stadium operating costs related to its activities.

4. The name of the Major League Baseball team must include San José.

5. If the City or Redevelopment Agency recommend a contribution in the form of land or a financial contribution for any other ballpark specific items, a vote by the citizens of San José will be required on the stadium project; and

**WHEREAS**, staff recommends that City and Agency staff commence a community engagement process that would facilitate and encourage public dialogue with neighborhoods and stakeholders, as fully described in the May 1, 2009 memorandum and consisting of the following four key strategies: (a) individual and small group meetings; (b) a dedicated web site; (c) the formation of a Diridon Area Good Neighbor Committee; and (d) formal community meetings.

**NOW, THEREFORE**, BE IT RESOLVED THAT THE COUNCIL OF THE CITY OF SAN JOSÉ:

1. Expresses the desire to support the A's if Major League Baseball favors a relocation of the A's to San José and expresses a willingness to work to develop a Major League Baseball stadium on the site located at Park Avenue and Autumn/Montgomery Streets; and

2. Establishes the negotiating principles described above for the development of a Major League Baseball stadium in the Diridon area of downtown San José; and

3. Approves the commencement of a public engagement program regarding a Major League Baseball stadium and other major planning activities in the Diridon area as described above.

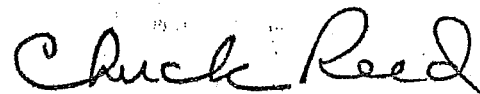
ADOPTED this 12th of May, 2009, by the following vote:

AYES: CAMPOS, CHU, HERRERA, KALRA, LICCARDO,  
NGUYEN, OLIVERIO, PYLE; REED.

NOES: NONE.

ABSENT: CHIRCO, CONSTANT.

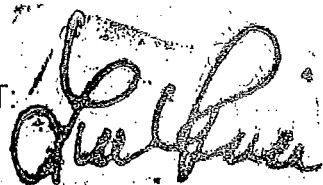
DISQUALIFIED: NONE.



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CHUCK REED  
Mayor

ATTEST:



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LEE PRICE, MMC  
City Clerk

**RESOLUTION NO. 75513**

**A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE EXPRESSING SUPPORT FOR ALLOWING THE A'S TO MOVE TO SAN JOSE AND AMENDING THE NEGOTIATING PRINCIPLES FOR THE DEVELOPMENT OF A MAJOR LEAGUE BASEBALL STADIUM IN THE DIRIDON AREA OF DOWNTOWN SAN JOSE**

**WHEREAS**, on April 7, 2009, the City Council and Agency Board reaffirmed its interest in supporting the efforts of the Oakland A's ownership to move the team to the City of San Jose; and

**WHEREAS**, on May 12, 2009, the Council established the following Negotiating Principles for the development of a stadium in the Downtown for a Major League Baseball team:

1. The stadium development must generate a significant economic benefit to the City of San Jose and have a positive impact on the City of San Jose's General Fund.
2. The Major League Baseball team, at no cost to the City of San Jose, will be responsible for building the stadium structure and improvements on the approximate 14-acre designated stadium site.
3. The Major League Baseball team will be responsible for paying for all stadium operating costs related to its activities.
4. The name of the Major League Baseball team must include San Jose.
5. If the City or Redevelopment Agency recommends a contribution in the form of land or a financial contribution for any other ballpark specific items, a vote by the citizens of San Jose will be required on the stadium project; and

**WHEREAS**, the Council desires to reaffirm its support of the efforts of the Oakland A's ownership to move the team to the City of San Jose; and

**WHEREAS**, the Council desires to amend the Negotiating Principles to also include or recognize all of the following additional principles (as amended, these collectively are the "Amended Negotiating Principles"):

1. San Jose Municipal Code section 4.95.010 provides that the City may participate in a sports facility using tax dollars only after obtaining a majority vote of the voters of the City of San Jose approving such an expenditure. The Municipal Code defines "tax dollars" to include any commitment to fund wholly or in part a facility with General Fund monies, Redevelopment fund monies, bonds, loans, special assessments or any other indebtedness guaranteed by City property, taxing authority or revenues.
2. Upon approval of the voters, the City of San Jose may spend San Jose Redevelopment Agency's Redevelopment funds, which are dedicated to redevelopment purposes by law and may not be used to pay operating expenses, for the limited purposes and on the specific conditions set forth in the Amended Negotiating Principles.
3. The City and Redevelopment Agency may, but are not required to, use Redevelopment funds for the following limited purposes:
  - a. To acquire a site in the Diridon area of the Downtown for development of a Downtown ballpark, to clear and environmentally clean the site, and to lease the cleared and environmentally clean site for development by a private party of a Downtown ballpark, free of improvements, easements or other encumbrances, for a major league baseball team; and
  - b. For off-site infrastructure and improvements that support a Downtown ballpark and would benefit the surrounding area.
4. The City of San Jose and San Jose Redevelopment Agency may consider using the Agency's Redevelopment funds for these purposes only if all of the following conditions are met:
  - a. No new taxes are imposed to fund these ballpark-related expenditures.

- b. The City determines that the ballpark development will generate a significant economic benefit to the City and have a positive impact on City General Fund revenues.
- c. No public funds are spent to finance or reimburse any costs associated with construction of the ballpark or construction of any on-site infrastructure or improvements needed for the ballpark.
- d. No public funds of any kind are spent to finance or reimburse any ballpark operational or maintenance costs related to activities conducted by or under the authority of the baseball team that uses the ballpark either at the ballpark or in the streets surrounding the ballpark.
- e. No public funds are spent to finance or reimburse the cost of any traffic control, street cleanup, emergency or security services within the ballpark site or within the streets surrounding the ballpark that are related to activities at the ballpark conducted by or under the authority of the baseball team.
- f. If the property is leased for a ballpark, the baseball team (or lessee, if the baseball team is not the lessee) must be willing, at the end of the term of the lease, either to purchase the property at fair market value or to do one of the following things at the City's option and at no cost to the City or the Redevelopment Agency:
  - Transfer ownership of the improvements to the City or Redevelopment Agency, or
  - Demolish the improvements and clear and clean the site to make way for other development.
- g. The entity that builds or operates the ballpark must be willing, if the City deems it appropriate, to make the ballpark available to the City during baseball's offseason for up to 10 days per year for community-related events, at no rental charge to the City.
- h. The name of the baseball team must include San Jose.

5. Nothing in these Amended Negotiating Principles is intended to or does eliminate the City's or Redevelopment Agency's ability to consider mitigation measures, alternatives or denial of a ballpark project. Nothing in these Amended Negotiating Principles is intended to or does curtail the obligations of the City and Redevelopment Agency to comply with the California Environmental Quality Act before deciding whether to pursue a ballpark. Nothing in these Amended Negotiating Principles is intended to or does commit the City or Redevelopment Agency to any course of action. If the voters approve a ballot measure that allows use of tax dollars and if a ballpark is pursued with the permission of Major League Baseball, "tax dollars" as defined in Municipal Code Section 4.95.101 may be used only on the terms and conditions stated in these Amended Negotiating Principles.

**NOW, THEREFORE, BE IT RESOLVED THAT THE COUNCIL OF THE CITY OF SAN JOSE:**

1. Reaffirms and expresses support for allowing the A's to move to San Jose; and

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2. Amends the Negotiating Principles, as described above, so that these Amended Negotiating Principles shall guide preliminary activities for the development of a Major League Baseball stadium in the Diridon area of downtown San Jose.

ADOPTED this 3rd day of August, 2010, by the following vote:

AYES: CAMPOS, CHIRCO, CHU, CONSTANT, HERRERA,  
KALRA, LICCARDO, NGUYEN, OLIVERIO, PYLE; REED.

NOES: NONE.

ABSENT: NONE.

DISQUALIFIED: NONE.



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CHUCK REED  
Mayor

ATTEST:



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LEE PRICE, MMC  
City Clerk

**RESOLUTION NO. 75567**

**A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE: (A) REAFFIRMING THE NEGOTIATING PRINCIPLES PREVIOUSLY ESTABLISHED AND AMENDED BY THE CITY COUNCIL; AND (B) SUPPORTING THE EFFORTS OF THE OAKLAND ATHLETICS OWNERSHIP TO MOVE THE TEAM TO SAN JOSÉ AND THE ASSISTANCE OF THE SILICON VALLEY LEADERSHIP GROUP AND OTHER LOCAL GROUPS IN THEIR EFFORTS TO BRING MAJOR LEAGUE BASEBALL TO SAN JOSE**

**WHEREAS**, on April 7, 2009 and August 3, 2010, the City Council and Agency Board affirmed its interest in supporting the efforts of the Oakland Athletics' ownership to move the team to the City of San Jose; and

**WHEREAS**, on May 12, 2009, the City Council and Agency Board established Negotiating Principles for the development of a stadium in the Downtown for a Major League Baseball team, which were subsequently amended by Council on August 3, 2010; and

**WHEREAS**, on September 10, 2010, through the efforts of the Silicon Valley Leadership Group, a letter from seventy five (75) of Silicon Valley's leading CEOs was sent to Major League Baseball urging Commissioner Selig to approve the Athletics' move to San Jose; and

**WHEREAS**, various local organizations, including the San Jose Silicon Valley Chamber of Commerce, the San Jose Convention and Visitors Bureau, the San Jose Sports Authority and Baseball San Jose, have all expressed their support for the Athletics' move to San Jose, and Lew Wolff, the Athletics' owner, is also on record as indicating he would prefer San Jose as the new home of the Athletics; and

**WHEREAS**, the Council desires to reaffirm the following previously-approved Negotiating Principles that will guide the City's efforts in bringing a Major League Baseball stadium to San Jose:

1. No new taxes are imposed to fund ballpark-related expenditures.
2. The City must determine that the ballpark development will generate a significant economic benefit to the City and have a positive impact on City General Fund revenues.
3. No public funds shall be spent to finance or reimburse any costs associated with construction of the ballpark or construction of any on-site infrastructure or improvements needed for the ballpark.
4. No public funds of any kind are spent to finance or reimburse any ballpark operational or maintenance costs related to activities conducted by or under the authority of the baseball team that uses the ballpark either at the ballpark or in the streets surrounding the ballpark.
5. No public funds shall be spent to finance or reimburse the cost of any traffic control, street cleanup, emergency or security services within the ballpark site or within the streets surrounding the ballpark that are related to activities at the ballpark conducted by or under the authority of the baseball team.
6. If the property is leased for a ballpark, the baseball team must be willing, at the end of the term of the lease, either to purchase the property at fair market value or to do one of the following things at the City's option and at no cost to the City or the Redevelopment Agency:

- a. Transfer ownership of the improvements to the City or Redevelopment Agency; or
  - b. Demolish the improvements and clear the site to make way for other development.
7. The entity that builds or operates the ballpark must be willing, if the City deems it appropriate, to make the ballpark available to the City during baseball's offseason for up to 10 days per year for community-related events, at no rental charge to the City.
8. The name of the baseball team must include San Jose.

**NOW, THEREFORE, BE IT RESOLVED THAT THE COUNCIL OF THE CITY OF SAN JOSE:**

- (a) Reaffirms the negotiating principles previously established and amended by the City Council; and
- (b) Supports the efforts of the Oakland Athletics ownership to move the team to San José and the assistance of the Silicon Valley Leadership Group and other local groups in their efforts to bring Major League Baseball to San Jose.

ADOPTED this 21<sup>st</sup> day of September, 2010, by the following vote:

AYES: CHIRCO, CHU, CONSTANT, HERRERA, KALRA,  
LICCARDI, NGUYEN, OLIVERIO, PYLE; REED.

NOES: NONE.

ABSENT: CAMPOS.

DISQUALIFIED: NONE.



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CHUCK REED  
Mayor

ATTEST:



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LEE PRICE, MMC  
City Clerk

**RESOLUTION NO. 5985**

**RESOLUTION OF THE BOARD OF DIRECTORS OF THE REDEVELOPMENT AGENCY OF THE CITY OF SAN JOSE: (A) REAFFIRMING THE NEGOTIATING PRINCIPLES PREVIOUSLY ESTABLISHED AND AMENDED BY THE AGENCY BOARD; AND (B) SUPPORTING THE EFFORTS OF THE OAKLAND ATHLETICS OWNERSHIP TO MOVE THE TEAM TO SAN JOSÉ AND THE ASSISTANCE OF THE SILICON VALLEY LEADERSHIP GROUP AND OTHER LOCAL GROUPS IN THEIR EFFORTS TO BRING MAJOR LEAGUE BASEBALL TO SAN JOSE**

**WHEREAS**, the Redevelopment Agency of the City of San Jose ("Agency") is presently engaged in redevelopment activities in the Strong Neighborhoods Initiative Redevelopment Project Area; and

**WHEREAS**, on April 7, 2009 and August 3, 2010, the City Council and Agency Board affirmed its interest in supporting the efforts of the Oakland Athletics' ownership to move the team to the City of San Jose; and

**WHEREAS**, on May 12, 2009, the City Council and Agency Board established Negotiating Principles for the development of a stadium in the Downtown for a Major League Baseball team, which were subsequently amended by Council on August 3, 2010; and

**WHEREAS**, on September 10, 2010, through the efforts of the Silicon Valley Leadership Group, a letter from seventy five (75) of Silicon Valley's leading CEOs was sent to Major League Baseball urging Commissioner Selig to approve the Athletics' move to San Jose; and

**WHEREAS**, various local organizations, including the San Jose Silicon Valley Chamber of Commerce, the San Jose Convention and Visitors Bureau, the San Jose Sports Authority and Baseball San Jose, have all expressed their support for the Athletics' move to San Jose, and Lew Wolff, the Athletics' owner, is also on record as indicating he would prefer San Jose as the new home of the Athletics; and

**WHEREAS**, the Agency desires to reaffirm the following previously-approved Negotiating Principles that will guide the City's efforts in bringing a Major League Baseball stadium to San Jose:

1. No new taxes are imposed to fund ballpark-related expenditures.
2. The City must determine that the ballpark development will generate a significant economic benefit to the City and have a positive impact on City General Fund revenues.

3. No public funds shall be spent to finance or reimburse any costs associated with construction of the ballpark or construction of any on-site infrastructure or improvements needed for the ballpark.
4. No public funds of any kind are spent to finance or reimburse any ballpark operational or maintenance costs related to activities conducted by or under the authority of the baseball team that uses the ballpark either at the ballpark or in the streets surrounding the ballpark.
5. No public funds shall be spent to finance or reimburse the cost of any traffic control, street cleanup, emergency or security services within the ballpark site or within the streets surrounding the ballpark that are related to activities at the ballpark conducted by or under the authority of the baseball team.
6. If the property is leased for a ballpark, the baseball team must be willing, at the end of the term of the lease, either to purchase the property at fair market value or to do one of the following things at the City's option and at no cost to the City or the Redevelopment Agency:
  - a. Transfer ownership of the improvements to the City or Redevelopment Agency; or
  - b. Demolish the improvements and clear the site to make way for other development.
7. The entity that builds or operates the ballpark must be willing, if the City deems it appropriate, to make the ballpark available to the City during baseball's offseason for up to 10 days per year for community-related events, at no rental charge to the City.
8. The name of the baseball team must include San Jose.

**NOW THEREFORE BE IT RESOLVED THAT THE BOARD OF DIRECTORS OF THE REDEVELOPMENT AGENCY OF THE CITY OF SAN JOSE HEREBY**

(a) Reaffirms the negotiating principles previously established and amended by the Agency Board; and

(b) Supports the efforts of the Oakland Athletics ownership to move the team to San José and the assistance of the Silicon Valley Leadership Group and other local groups in their efforts to bring Major League Baseball to San Jose.

ADOPTED this 21<sup>st</sup> day of September 2010, by the following vote:

AYES: REED, CONSTANT, KALRA, LICCARDO, CHU, OLIVERIO,  
NGUYEN, HERRERA, CHIRCO, PYLE.

NOES: NONE.


ABSENT: CAMPOS.

ABSTAIN: NONE.

VACANT: NONE.

  
CHUCK REED, CHAIRPERSON

ATTEST:

  
HARRY S. MAVROGENES  
SECRETARY